

CIVILIAN OVERSIGHT OF POLICE: SOME AUSTRALIAN MODELS

By Marshall P. Irwin

During the 1980's in Australia and abroad, police agencies were forced increasingly to share responsibility for maintaining appropriate levels of discipline with civilian review or oversight bodies.¹

The establishment of such permanent independent statutory agencies (as opposed to *ad hoc* Royal Commissions and Commissions of Inquiry) with significant powers to investigate alleged police corruption and to oversight internal police investigations into misconduct has been seen as a vital antidote to cyclical corruption. It involves a significant and symbolic demonstration by governments that corruption will not be tolerated and that significant steps to eradicate it will be taken.

It would be contrary to contemporary wisdom to suggest that in Australia, a system of external police investigation and oversight should not be a permanent feature.² With one exception, no Australian jurisdiction vests police with exclusive power to investigate and determine all allegations of misconduct against other police.

The Criminal Justice Commission (the CJC) and the Police Integrity Commission (the PLC) have been established in the States of Queensland and New South Wales respectively as permanent independent organisations with significant coercive powers to investigate police corruption and misconduct. These agencies have been established as a result of the exposure by the Fitzgerald Inquiry in Queensland and the Wood Inquiry in New South Wales, of the existence in each State of a very serious police corruption which was widespread and of long standing origin.

The focus of this paper is on the different models for civilian oversight which have been created in the respective State's as a result of the two inquiries, and what can be learnt from those models.

The role of the National Crime Authority

The National Crime Authority (the NCA) was established in 1984 in response to widespread community and Parliamentary concern about increasing organised criminal activity in Australia. This has resulted in the NCA investigating criminal activity which is complex, involves two or more people and extensive planning, and where the criminal conduct is of the most serious kinds - murder, drug trafficking, extortion, major fraud and corruption.

The NCA possesses powers to compel the attendance of witnesses for cross-examination and the production of documents, in cases where it has been issued a reference by an Inter-Governmental Committee to investigate a particular matter. This Committee consists of the Commonwealth Minister for Justice and Customs and the ministers responsible for police in each State and Territory.

One of the references under which the NCA may exercise its special coercive powers is *Freshnet* which involves the investigation of established criminal networks (ECNs) in Australia. These networks are entrenched, organised crime syndicates of Anglo-Saxon or Anglo-Celtic origin, which collectively exercise a substantial degree of influence over various forms of criminal activity including drug importation and trafficking, organised thefts and money laundering.

However in many cases it is the methods used by the groups, in particular the corruption of law enforcement, rather than the seriousness of the criminal activities engaged in, which is of the greatest concern. For example their activities are often facilitated by information from corrupt sources. ECNs use this information to impede the investigation and prosecution of their activities.

The principal aim of the NCA is to disrupt the organised criminal activities of the most significant ECNs. It seeks to do so by co-ordinating a national multi-agency taskforce of 19 participating agencies across Australia, including State and Territory law enforcement agencies, the Australian Federal Police (the AFP), the Australian Customs Service and the Department of Immigration and Multicultural Affairs.

The NCA also encounters corruption and seeks to expose it, when conducting investigations under its other references. Although it is recognised that corruption extends beyond the realms of law enforcement, the focus of this paper is exclusively on civilian oversight models to reduce corruption in law enforcement agencies.

The Queensland Model *The Fitzgerald Inquiry*

The Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (referred to as the "Fitzgerald Inquiry") was established in 1987 and reported on 3 July 1989. It found that the Queensland Police Service (QPS) was debilitated by misconduct, inefficiency, incompetence and deficient leadership, and was characterised by lack of discipline, cynicism, disinterest, frustration, anger and low self esteem.³

The Fitzgerald Inquiry exposed a system in which crime and corruption ranged across activities including prostitution, the running of sex parlours and brothels, illegal gambling, SP betting, bribery, the rorting of ministerial expenses, protection rackets and money laundering.⁴ A number of senior police including the Police Commissioner were identified as corrupt, and subsequently convicted and sentenced to imprisonment. Four former Government ministers were also subsequently found guilty of corruption for rorting their expenses and served time in jail. A jury deadlocked at the trial of the former State Premier, Sir Joh Bjelke-Peterson for official corruption concerning monies given to him by an Asian businessman. The prosecution decided not to hold another trial because of his age and the belief that overseas witnesses would not return for a retrial.⁵

The Fitzgerald Inquiry found that neither the internal investigations unit nor the

external agencies then in existence had prevented the corruption from continuing, or had brought about the substantial changes needed to break the cycle of corruption.

The Inquiry criticised the effectiveness of the QPS Internal Investigations Unit (IIU) and the external Police Complaints Tribunal (PCT). In the Inquiry's view, the procedures for handling complaints had actually inhibited the reporting of police misconduct. It referred to "the ineptitude if not the protection" of the IIU and "the facade" of the PCT.⁶ This was compounded by poor management and supervision in the QPS. Another factor was that both the IIU and the PCT were inadequately resourced.

Aftermath: Establishment of the CJC

The Fitzgerald Inquiry recommended a comprehensive reform package aimed at restructuring the QPS and the environment in which it operated. This included reforms aimed at improving the processing, investigation and monitoring of complaints.⁷ The new complaints and disciplinary model recommended for the QPS in the Fitzgerald Inquiry report was implemented with only minor departures from those recommendations.⁸ The IIU and the PCT were abolished, and the new disciplinary process with civilian oversight as its cornerstone was enshrined in legislation, the *Criminal Justice Act 1989* (CJ Act).

The CJ Act established the Criminal Justice Commission (CJC) with an Official Misconduct Division (OMD), including a Complaints Section which commenced operation on 22 April 1990. The CJC was provided with substantial powers and resources to investigate suspected police misconduct, including official misconduct. Official misconduct by serving members of the QPS involves conduct which is not honest or impartial, a breach of trust or misuse of powers, and constitutes a criminal offence or reasonable grounds for dismissal.

In keeping with the recommendation to strengthen the statutory obligation on police to report suspected misconduct by fellow officers and greater statutory protection of officers who report misconduct, the Commissioner of the QPS was required to notify the Complaints Section, of all suspected misconduct by members of the QPS. As a corollary to this all police were required to notify the Commissioner and the CJC if they had knowledge or a reasonable suspicion of misconduct by another officer. Dishonesty, assaults and misuse of official powers are complaints generally assessed as raising possible misconduct.

The QPS retained responsibility for breach of discipline matters, which in general are less serious categories of impropriety such as duty failure, incivility, failure to comply with a direction, code of conduct breach or unauthorised absence from duty.

The Complaints Section soon became the focal point for numerous complaints across the several units of public administration within the State. It was not limited to investigating police misconduct. However many such complaints, in excess of 70% related to the conduct of police officers.⁹ The initial influx of complaints after the CJC commenced operations supports the view that the public

perceived the CJC as having the necessary independence and integrity to conduct worthwhile investigations into complaints.¹⁰ However this placed enormous strains on the CJC which also had unique range of additional responsibilities including research and co-ordination of the criminal justice system, intelligence, witness protection and the administration of Misconduct Tribunals which heard charges of official misconduct, as well as the investigation of organised and major crime.

Until 1992 the Complaints Section was required to investigate all complaints referred to it, including from an anonymous source, other than those that were frivolous and vexatious. Following a legislative amendment in that year the section was given a discretion not to investigate or to discontinue the investigation of a complaint, information or matter communicated to it. Further it was required not to investigate a frivolous or vexatious complaint or an anonymous complaint lacking in substance and credibility.¹¹

However the result of the pre 1992 position was that despite the fact that the OMD was obliged to operate of its own initiative as well as in response to complaints or information received concerning misconduct, for reasons beyond the control of the CJC, it was not possible initially to undertake a proactive and covertly based investigation of police corruption, rather than an approach that involved reacting to individual allegations of wrong doing.

A proactive approach

Because corruption related offences tend to be covert, insidious and hard to detect¹² any anti-corruption system, whether external or internal to the Police Service, that is purely reactive will grossly underestimate corruption. The reason is obvious, most victims and witnesses do not report it.¹³

Accordingly a proactive investigative approach is required with all the investigative support available to any other criminal investigation, including intelligence analysis, surveillance, listening devices, telephone intercepts if lawful, undercover operatives, informants and co-operating witnesses.¹⁴ A full panoply of investigative techniques of this sort were successfully used by the Wood Inquiry.¹⁵

In fact the Wood Inquiry found that amongst the factors which had contributed to the limited success of internal investigations in NSW, were the use of ineffective investigative techniques, the reactive focus of the complaints system on single instances of misconduct, the failure to successfully utilise intelligence, covert techniques and surveillance, and the failure to use broad based financial analysis.¹⁶

As a result of the initial CJC proactive investigations commenced in 1995 to address corrupt police conduct related to the drug trade, the CJC engaged a former Supreme Court Judge, the Hon. W.J. Carter QC to conduct investigations into this activity through a multi disciplinary, proactive investigative unit, supported by covert strategies.¹⁷

Like the Wood Inquiry, Mr Carter QC concluded that his investigation provided a convincing demonstration of the need for proactive and intelligence driven investigations supported by other disciplines that allow the investigative effort to be optimised, rather than being merely reactive and complaint driven.¹⁸

It is significant that most of the offenders identified during the investigation had previously been the subject of complaint to the CJC - complaints that were unable to be substantiated by overt reactive policing.¹⁹ The report of the Inquiry emphasised the utility of covert investigative techniques as part of the investigation strategy.²⁰

As a result the Inquiry recommended the establishment within the CJC of a permanent anti-corruption unit, separate from the Complaints Section, which is multidisciplinary in concept, staffed by elite investigators from the CJC and the Police Service, supported by legal expertise, intelligence, financial analysis and surveillance and technical support and administrative support.²¹ Although reasonable resources

would be required, this was considered to be the most cost effective way of addressing the various forms of corruption within the QPS.²²

Consistently with the Carter Inquiry the CJC has since employed proactive intelligence and investigative techniques to detect and investigate serious misconduct, such as consensual corruption which does not come to the attention of the complaints system.²³ For example it maintained the proactive anti-police corruption unit.

Concurrently with the Wood and Carter Inquiries the Review Committee chaired by the inaugural Chairperson of the CJC, Sir Max Bingham QC was also concluding that a more proactive and preventive approach was required to be taken to the QPS disciplinary process. The proactive strategies recommended to minimise complaints included the development by the CJC and the QPS of a system for identifying complaints, data patterns which were indicative of procedural and management deficiencies. The Committee believed that any significant improvement in the overall system would emerge in a shift in focus to a more preventative approach and would benefit from greater emphasis on identifying people, systems and conduct over represented in complaints statistics.²³

It would appear that in response to this recommendation, the Ethical Standards Command (ESC) was created in the QPS on 1 October 1997 with responsibility for overseeing ethics training within the QPS and to facilitate a more proactive approach to the prevention and detection of police misconduct.²⁴ One of the components of the ESC is an Internal Investigations Branch (IIB).

The position now is that CJC is solely responsible for investigating official misconduct. It investigates or overviews the investigation of complaints of misconduct, and overviews the assessment of matters as breaches of discipline. However the QPS otherwise determines complaints involving breaches of discipline, many of which are now finalised by informal resolution.

The CJC refers back to the QPS for investigation, subject to the overview of the Complaints Section, those cases which it assesses involve complaints of minor misconduct. The purpose is to support and enhance the disciplinary process within the QPS. This process is aimed at fostering greater responsibility for personnel

management within the QPS.²⁵

However the CJC being established before the New South Wales model, it is not surprising that the CJC established a system which was different from the system established in New South Wales as a result of the Wood Inquiry recommendations. This was a system in which

- the CJC referred misconduct matters back to the QPS for investigation, it did so directly to the QPS Regional Commands, not through the IIB of the ESC;
- the QPS has had an extensive regime of overview of internal investigations involving a number of gateways, including 100% review of all complaint files by JIB before ultimate dissemination to the CJC. This involved duplication of function by JIB and CJC, which prevented the JIB undertaking investigations as a primary function, and any investigations were generally reactive in nature;
- the IIB has had no role in the investigation of more serious complaint matters and issues of significant risk to the QPS, including those matters and issues involving criminal conduct or misconduct capable of leading to dismissal.

This is not a criticism of the CJC model, which is one that the architects of the New South Wales model had the opportunity to observe and build on. Further although to date the Queensland CJC has maintained the role of investigating all complaints against police that are not minor misconduct or breaches of discipline, there are indications that it is moving towards a more flexible position which will result in the less serious allegations of official misconduct being investigated by the JIB of the ESC, and more matters being dealt with at a local level.

The New South Wales Model

The Wood Inquiry

A decade after the establishment of the Fitzgerald Inquiry, the Royal Commission into the New South Wales Police Service (referred to as the "Wood Inquiry") released its final report in May 1997. Similarly to the Fitzgerald Inquiry it disclosed in relation to the NSW Police Service a very serious state of corruption that was wide spread and of long standing origin. That state of corruption, as had been the case in Queensland could only be regarded as systemic and entrenched.²⁶ Mirroring the New York City Mollen Inquiry in 1994, it found active involvement of police in planning and implementing criminal activity, sometimes in partnership with known criminals and sometimes in competition with them.²⁷

Like the Fitzgerald Inquiry the Wood Inquiry found that neither the internal investigations unit nor the external agencies responsible for oversight of the NSW Police Service had identified or prevented this situation.

The Wood Inquiry also found inadequate resourcing and support for the NSW Internal Affairs Command, which in turn deterred investigators from seeking postings and reduced it's investigative capacity.²⁸ Other factors found to have contributed to the limited success of internal investigations in NSW, included the use of ineffective investigative techniques, the reactive focus of the complaints

system on single instances of misconduct, the failure to successfully utilise intelligence, covert techniques and surveillance, and the failure to use broad based financial analysis.²⁹

The external agencies responsible for oversight of the NSW Police Service were the Independent Commission Against Corruption and the Ombudsmen. However their existence and participation in the oversight of the Service was in addition to other areas for which they had statutory responsibility. This undoubtedly contributed to their inability to break the corruption cycle.³⁰

Aftermath: Establishment of the PLC and Role of the Office of Internal Affairs

However unlike the Queensland approach, although the Wood Inquiry saw external oversight and investigation as advantageous and recommended the establishment of the Police Integrity Commission (PLC) with responsibility for the investigation of more serious matters involving criminal conduct or misconduct capable of leading to dismissal, it was also recommended that the NSW Office of Internal Affairs (OIA) maintain a significant role in the investigation of such matters.

As a result in New South Wales an investigation system has been established for the more serious police misconduct in which both the PLC and the OIA have significant investigative roles to play. The New South Wales Police Service retains a direct responsibility to address corruption within its ranks, while an external agency staffed by skilled lawyers and investigators independent of the Service, assumes an overseeing role and a capacity to undertake direct investigations into selected cases.

Retention of a role within the Police Service to respond to corruption was seen as essential because otherwise there was a risk that it might abandon all responsibility and interest in maintaining high standards of integrity. It was therefore important that the disciplinary process was one in which the Police Service shared ownership.

On the other hand, external oversight was seen as advantageous in enhancing police accountability, guaranteeing independent and aggressive pursuit of serious corruption, and increasing public confidence in the Service.³¹ There can be no doubt that the existence of external investigation and oversight, particularly in the form of an agency with significant coercive powers ensures transparency, quality, appropriateness and timelines in the investigation and remedial process.

As has already been observed the Wood Inquiry through the use of a full range of investigative techniques demonstrated the need for a proactive approach in order to effectively counteract police corruption. Accordingly it recommended that this approach be adopted by both the external and internal mechanisms that were established.

The Wood Inquiry also proposed the establishment of the Employee Management System (EMS) with a primary objective of enabling patrol and other local Commanders to deal with complaints and take remedial action or impose sanctions on a managerial basis, without recourse to formalities such as the preferment of disciplinary charges and hearings.³²

This is because the Inquiry found that corruption was not exposed due to the lack of effective first line supervision or accountability for failure by local Commanders and supervisors to deal with corrupt practices. Part of the problem was lack of any real sense of responsibility at local level.³³

The proposed system involved 3 categories of complaint. Category 1 matters were the more serious matters involving criminal conduct or misconduct capable of leading to dismissal, and requiring investigation by the PLC or the OLA. Category 2 complaints were less serious matters reportable to the Ombudsman and suitable for disposition by the Service under the proposed scheme. These were to be investigated and resolved by local Commanders. Category 3 complaints were those lesser matters involving internal management, not reportable to the Ombudsman but subject to discretionary audit by her.³⁴

Under this system the role of the OJA was to extend to:

- investigation of category 1 complaints deemed unsuitable for the PLC and the relevant local Commander;
- the conduct of integrity tests and random tests for substance abuse;
- the provision of advice and support services;
- the co-ordination and establishment of intelligence bases on corruption within the Police Service;
- planning proactive investigations, in liaison with the PLC;
- provision of assistance with development of anti-corruption strategies and training for the Police Service.³⁵

The role of the PLC was to extend to:

- monitoring the progress of the EMS;
- undertaking direct investigations into serious matters of corruption or police misconduct likely to lead to the bringing of criminal charges or to dismissal;
- acting in conjunction with the OIA and monitoring investigations by the OLA into those matters which it retains;
- exercising its coercive powers to assist the OIA where expedient to do so;
- taking over inquiries into police shootings or serious accidents where it is considered desirable to ensure an impartial investigation.³⁶

This would appear to be how the system has worked in practice. Accordingly the OJA has been permitted to play a more proactive or significant investigative role than the Queensland ESC or its predecessor. The OIA role includes the investigation of the more serious police misconduct which until recently would be reserved to the CJC in Queensland. Further complaints of minor misconduct are pushed down to a local command level in NSW, without overview by the PLC but audit by the Ombudsman. A greater proportion of complaints are permitted to be dealt with at local level than has been the case in Queensland. It is noted that the

PLC is subject to a specific restriction not to employ serving or former members of the NSW Police services. Whereas the bulk of the CJC investigators are seconded serving members of the QPS.

Human Resource Management

As recognised by the Wood Inquiry and concurrently by the Bingham Inquiry in Queensland, investigation is not the only technique to be employed to inoculate Police Services against the infection of corruption. Part of the overall strategies which must be interwoven to combine to minimise corruption is a remedial management approach which also looks to more than a reactive approach to individual incidents.³⁷

This involves the service setting proper standards and doing what it can to encourage its members in a managerial way to lift their performance.³⁸ It integrates modern human resource management practices, which include recognition and reward, and development. This is associated with creating the necessary attitudinal change and creating the right environment.

As observed the Wood Inquiry proposed the establishment of the EMS, involving the Category 3 complaints which were not reportable to the Ombudsman but subject to discretionary audit by her.

Under the EMS, it was recommended, that on becoming aware of possible misbehaviour, the Local Commander be empowered to initiate an inquiry and to take such action as considered appropriate in all the circumstances focused, if possible, upon managerial or remedial measures. However in the more serious cases action may include imposition of a reviewable managerial sanction such as a fine, deferral of an increment, loss of seniority, reduction in salary, demotion or initiation of the Commissioner's confidence process.³⁹

Accordingly under the Wood Inquiry proposals, managers were given the opportunity to deal with outcomes at a grass roots level in the local work environment, rather than sending complaint matters off to the deepest and darkest depths of the organisation for scrutiny and validation of those outcomes before implementation. This ensures that the process is not paralysed by inaction or indecisiveness. Not only is justice delayed, justice denied⁴⁰ but any substantial delay involved in dealing with a disciplinary matter is likely to undermine confidence in and the credibility of the process.

This is a more remedial management approach which looks to more than a reactive narrow response to individual incidents.⁴¹ It involves the service setting proper standards and doing what it can to encourage its members in a managerial way to lift their performance.⁴² It integrates modern human resource management practices, which include recognition and reward, and development.

At the same time, the proposals have recognised the need for disciplinary sanctions, criminal prosecutions and ultimately removal from the police service by Commissioner in cases in which he has lost confidence in an officer.

In Queensland the Bingham Review considered that the essential components of a fair disciplinary system, included:

- the facility to acknowledge and reward commendable conduct, not merely acts of heroism, numbers of arrests or time served;
- the capacity and preparedness to identify and respond to systematic shortcomings;
- an effective monitoring system⁴³

It was noted that an effective disciplinary system not only punishes wrong behaviour but also encourages and rewards good conduct.⁴⁴ It might also involve line supervisors and managers providing more positive feedback, because officers would be more receptive to correction and guidance by a superior officer if that officer habitually provided constructive feedback to subordinate staff.⁴⁵

Again the theme was one of the necessity for the disciplinary system to be an inherent part of effectively discharging management responsibility. The Review expressed concern at what it saw as the abrogation of this responsibility by supervisors, showing reluctance to deal with a matter for which they had jurisdiction, and instead preferring to pass the matter onto the CJC for consideration.⁴⁶

It was recommended that in keeping with encouraging managerial responsibility, leadership and an even-handed approach, the disciplinary regulations be amended to permit superior officers to provide advice or guidance instead of the necessity of imposing a disciplinary sanction.⁴⁷

The CJC in its report in September 1997 on *"Integrity in the Queensland Police Service. Implementation and Impact of the Fitzgerald Inquiry Reforms"* found that the QPS had in fact implemented a risk management approach premised on "proactive management" principles, through which managers were expected to work towards minimising the risk of misbehaviour of officers under their control.⁴⁸ Further, since the Bingham Review, the ESC had developed proactive strategies to identify officers with lengthy complaint histories, and regions had been asked to review the complaints and work histories of the officers concerned and to consider various management responses, such as provision of guidance, or re-deployment.⁴⁹

The CJC noted that processes were in place to ensure that minor errors were dealt with managerially, rather than diverted to the complaints system, complaints investigations were encouraged to include suggestions for remedial action in their reports; and a risk management policy had been introduced, although hampered by lack of training.⁵⁰ The CJC itself has pioneered a system where less serious complaints are resolved by informal resolution.

The report concluded that while there is always scope for further refinement, in most cases the complaints and discipline processes were working satisfactorily.⁵¹

In relation to the future it was said:

"There is now a need to focus on developing and implementing preventive

strategies and modifying the organisational climate of the QPS to ensure that the gains which have been made to date are consolidated, higher standards of police behaviour are promoted and there is less need to evoke disciplinary sanctions against officers.”⁵²

Accordingly it is an essential component of any anti-corruption strategy that local commanders are responsible and accountable for investigating and where appropriate adopt a managerial approach to complaints of minor misconduct and breaches of discipline, thus raising the accountability to set local standards of expected behaviour. This allows more minor disciplinary issues to be addressed wherever possible in an informal and meaningful way, in which punishment is seen as the last resort.

In addition effective human resource management as part of a long term anti-corruption strategy must target selection and recruitment processes, promotional procedures (which must be based on merit and involve integrity as a crucial factor), education and training.⁵³

The matter is well expressed by the Mollen Commission which observed:

”Police Corruption is a problem that cannot be solved exclusively by investigations and prosecutions.. It is a condition that must be addressed on all fronts and in the daily operations of the Police Department: through appropriate recruiting, effective training, supervision, strict internal audits and procedures, effective corruption prevention techniques, management accountability, public accountability, and the most important, an unflagging commitment within the department to deal with the problem of corruption candidly and effectively.”⁵⁴

However the fact remains that in New South Wales a greater proportion of complaints have been permitted to be dealt with at a local level than is the case in Queensland. Although as indicated the CJC is now adopting a more flexible position in this regard.

The Future

Because, in my opinion it is important that any police disciplinary process is one in which the police agency shares ownership, in Queensland it is essential for the CJC and the QPS to continue to work in partnership to progressively move towards the relationship between the New South Wales PLC and OIA, with the CJC concentrating on those corruption and official misconduct matters considered the most serious and of the highest risk to the QPS and the community.

Such a system, will enable the ESC, through the IIB to investigate complaints which involve corruption and misconduct, likely to lead the bringing of criminal charges or dismissal, under CJC oversight.

The CJC’s role would be to investigate the most serious issues of corruption and misconduct which because of their sensitivity and complexity require significant resources to resolve. It should be for the CJC to determine which of the more serious matters should be investigated directly by it. In appropriate cases, the CJC and the ESC could investigate a matter jointly.

Under this approach the CJC would continue to discharge the role of the independent multi-disciplinary intelligence driven proactive complaints investigation unit envisaged by the Carter Inquiry. It would also continue to overview the QPS in relation to the investigation of the serious misconduct matters by the IIB.

It should be for the IIB to be responsible for decisions as to who conducts complaints investigation within the QPS. At the same time this oversight role should not interfere with the responsibility of the QPS to manage its own people by local Commanders being responsible for and accountable for investigating and where appropriate adopting a managerial approach to complaints of minor misconduct and breaches of discipline, thus raising the accountability to set the local standards of expected behaviour. This would allow the more minor disciplinary issues to be addressed wherever possible in an informal and meaningful way.

This would involve a continued emphasis on proactive strategies, utilising intelligence, technical and risk assessment methodologies.

Conclusion

It would be contrary to contemporary wisdom to suggest that in Australia, a system of external police investigation and oversight should not be a permanent feature.

This was recognised in a speech during 1999 by the President of the Police Federation of Australia who supported the view that external reviews of police agencies are absolutely necessary.⁵⁵ On the same occasion the NSW Police Association supported the Wood Inquiry recommendations. In fact, the NSW Police Union has been advocating for all complaints investigations to be carried out by an independent complaints authority since 1987.⁵⁶ What is important is to adopt a balanced approach in such investigations.⁵⁷

It is notable that after the most recently documented emergence of cyclical corruption in the NYPD, the 1994 report of the Commission established to investigate the allegations (commonly referred to as the Mollen Report) recommended the introduction of an external oversight body.⁵⁸ It observed that history had revealed that "only external oversight will compel the Department to accomplish what it naturally wants to avoid uncovering, corruption among its own ranks."⁵⁹

However, as has been well demonstrated by cyclical nature of corruption in the NYPD, it will continue to evolve so that vigilance must be maintained in order to find new ways to counteract it.

There is no one strategy which can be relied upon to inoculate against corruption. What is required is an holistic, integrated and proactive approach to the problem. This approach will include both investigation and oversight by independent civilian agencies with coercive powers and internal disciplinary mechanisms, utilising proactive methods, including testing for integrity and substance abuse.

However because corruption is not something that can be treated exclusively by investigation and punishment, the strategies should include the creation of attitudinal change and the right environment and human resource management which emphasises a proactive remedial approach.

This paper has presented the two most developed Australian models of police oversight which operate to different degrees in conjunction with internal disciplinary mechanisms and human resource management.

Consistently with the necessary evolution of the disciplinary system, the nature of the balance between civilian oversight, police service responsibility and human resource management must be regularly reviewed. In this way the Queensland model will over time move towards the New South Wales model, ensuring the necessary share of the service in the ownership of the disciplinary process. At the same time it is also necessary for the New South Wales model to be a continually evolving one.

If civilian oversight and internal police service disciplinary systems continue to be the subject of scrutiny and evolution, it will ensure that corruption can be minimised and public confidence will be maintained both in the system and the police service. This will bring with it the support for the police service which is essential to the maintenance of the rule of law.

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ABSTRACT

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The establishment of such permanent independent statutory agencies (as opposed to adhoc Royal Commissions and Commissions of Inquiry) with significant powers to investigate alleged police corruption and to oversight internal police investigations into misconduct has been seen as a vital antidote to cyclical corruption. It involves a significant and symbolic demonstration by governments that corruption will not be tolerated and that significant steps to eradicate it will be taken.

However because corruption is not something that can be treated exclusively by investigation and punishment, the strategies should include the creation of attitudinal change and the right environment and human resource management which emphasises a proactive remedial approach.

The paper presents the two most developed Australian models of police oversight which operate to different degrees in conjunction with internal disciplinary mechanisms and human resource management.

It is concluded that there is a necessity for these models to continue to evolve and be scrutinised. This will ensure that corruption can be minimised and public confidence will be maintained both in the system and the police service. This will bring with it the support for the police services which is essential to the maintenance of the rule of law.

¹ Loveday, B, *Improving police integrity and accountability to the community*, International Journal of Police Science and Management, Vol 1 No 4, pp³⁹⁰⁻¹.

² Queensland Police Service Review Committee "Review of the Queensland Police Service" (1996) QPS Review Committee, pp 231 and 240.

³ Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, *Report of a Commission of Inquiry Pursuant to Orders in Council dated 26 May 1987, 24 June 1987, 25 August 1989 and 29 June 1989* (Mr G.E. Fitzgerald, Commissioner), Fitzgerald Inquiry, Brisbane, p200.

⁴ Lewis, C, *Complaints Against Police: The Politics of Reform* (1999). Hawkins Press, p 124.

⁵ Ibid.

⁶ Fitzgerald Inquiry, p299.

⁷ Criminal Justice Commission, September 1997, *Integrity in the Queensland Police Service: Implementation and Impact of the Fitzgerald Inquiry Reforms*. CJC, Brisbane, p3

⁸ Ibid, p111

⁹ Criminal Justice Commission, October 1997, *Police and Drugs: A Report of an Investigation of cases involving Queensland Police Officers*, CJC, Brisbane, p1

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- ¹⁰ Queensland Police Service Review Committee 1996 p240
- ¹¹ Ibid
- ¹² Camerer, L, *South Africa: Derailing the Gravy Train - Controlling Corruption* (June 1997), Journal of Financial Crime, Vol 4 No 4, p367
- ¹³ NSW Police News, *The Royal Commission Column* (March 1996) Vol 76 No3, p46 with reference to the Mollen Report
- ¹⁴ Police Life, p4
- ¹⁵ NSW Police News, "The Royal Commission Column"(February 1996) Vol 76 No2, p43
- ¹⁶ Wood Inquiry, Final Report, 1997. p199-200
- ¹⁷ Criminal Justice Commission, October 1997
- ¹⁸ Ibid, pp 11, 17.
- ¹⁹ Ibid, p17
- ²⁰ Ibid, p18
- ²¹ Ibid, pp75-77
- ²² Ibid, p76
- ²³ Criminal Justice Commission, September 1997, p113
- ²⁴ Ibid
- ²⁵ Criminal Justice Commission, *Annual Report 1995-96*
- ²⁶ Royal Commission into the New South Wales Police Service 1997, *Royal Commission into the New South Wales Police Service - Final Report* (The Hon Justice JRT Wood, Commissioner), Wood Inquiry, NSW, p161
- ²⁷ Ibid, p189.
- ²⁸ Ibid, p193.
- ²⁹ Ibid, pp 199-200.
- ³⁰ Ibid, p79.
- ³¹ Ibid, p524
- ³² Ibid, p547
- ³³ Ibid, pp332-3
- ³⁴ Ibid, pp332-3
- ³⁵ Ibid, p348, pp547-8.
- ³⁶ Ibid, p347 and p548
- ³⁷ Wood Inquiry, First Interim Report, February 1996, p2-17
- ³⁸ Ibid, p330
- ³⁹ Wood Inquiry, p547
- ⁴⁰ Gissiner, M. "President's Message" (July 1999), International connection, the journal of LACOLE, Vol.4, Issue 2, p2.
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- ⁴³ Queensland Police Service Review, 1996, p256
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- ⁵⁰ Ibid, p111
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